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June 19, 1987

Louis J. Rosenberg

Randal C. Gray  
Jennifer Cell  
Dale Muller

24 June  
1. cy to cc.  
500 for review  
prior to meeting  
Of Counsel  
25 June  
Alex H. Coy III  
2. Cy to Ann He.  
Elin G. He. Co.  
[Signature]

Mr. Aart Millecam  
Chairman, City Planning Commission  
City of San Marcos  
111 West Holland Street  
San Marcos, Texas 78666

Re: Meeting of May 26, 1987  
Our File No. 074-86-H

Dear Mr. Millecam:

This letter will follow up the informal workshop/planning session that occurred May 26, 1987, concerning the proposed draft ordinance involving subdividers and the provision of utility service.

It is my understanding that the newly revised "draft" ordinance will be furnished in the near future, which revised ordinance will include legal definitions, and will be revised to reflect corrections and revisions in response to the comments that were made by attorney John Bell and myself.

You will recall, for clarity, that objection was raised with regard to the following provisions:

Item 1:

Paragraph 3 (a), which suggests, when considered with Paragraph 4 (b) and 4 (c), that the Planning Commission shall have "discretion" with no action by the City Council; further, that the "discretion" may be exercised for the purpose of authorizing and approving "individual wells for each lot . . . ." This latter element suggests approval possibilities within the Certificate of Convenience and necessity of an Existing Certificated Water Utility. This is clearly not acceptable, even as a "suggestion."

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Item 2:

Paragraph 4 (a) must clearly be understood to operate prospectively, i.e., in the future only. As to existing Water Utilities, this may mean that the subdivider may have to bear expense of upgrade for mains and facilities serving a proposed subdivision, but clearly the language should specify the type, scope and breadth of the engineering review to be performed by the City of San Marcos.

Item 3:

Maxwell Water Supply Corporation wants to and requires that it be considered as an existing, certificated Water Supply Corporation, duly operating pursuant to State and National law. No transfer of authority or approval for any portion of the Maxwell CCN has been requested at the Texas Water Commission, nor has any been approved. Therefore, for review purposes and applicability purposes, Maxwell wants to be considered as a lawfully operating public utility which is not only entitled to service but required to fully service any customer requiring service within its existing CCN.

I would appreciate receiving the revised draft ordinance well in advance of any future meetings at which the subject would be considered.

It was my understanding that no action was taken on the water facilities draft ordinance, and that none will be taken until there is an opportunity for further review of the new draft.

On a separate, but related subject, the so-called Maxwell Contract, mentioned by yourself and other members of the commission and planning staff, I would like to have a copy of the minutes of the planning commission, and any informal notes, concerning the adoption of "the contract" with Maxwell Water Supply Corporation.

You will recall that the discussion of "the contract" with Maxwell Water Supply Corporation occurred at the May 26, 1987, workshop and at the prior May 15, 1987, informal session.

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Since I was neither an observer nor a participant at the 1985 discussions concerning the Maxwell document, it would be helpful for me to be able to review the prior notes, minutes, etcetera, regarding the Planning Commission.

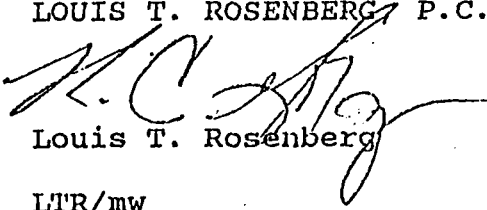
Further, I would appreciate your having the City Clerk (or City Secretary, as the case may be) provide me with a certified and true copy of the Council Minutes, Ordinance and Resolution, as well as a full and complete copy of the Contract (and all Exhibits) reflecting the actual and complete formal record of adoption of the so-called "Maxwell Contract."

Please ask the City Clerk to invoice me for the full set of the documents I am requesting through your good offices.

Thank you.

Very truly yours,

LOUIS T. ROSENBERG P.C.



Louis T. Rosenberg

LTR/mw

cc: Mr. Will Ross ✓  
President  
Maxwell Water Supply Corporation

cc: Mr. John F. Bell, Esq.

cc: Mrs. Martha V. Terry, Esq.

cc: Lindy Lyles  
Manager  
Crystal Clear Water Supply Corporation